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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JITRADE INC., a California
Corporation,

Plaintiff,

vs.

WHOLESALEFASHIONSQUARE.com,
INC., a California Corporation; and
DOES 1 through 10, inclusive,

Defendants.

Case No.: _____

COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT
2. VICARIOUS COPYRIGHT INFRINGEMENT
3. CONTRIBUTORY COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff JITRADE INC., ("Plaintiff") complains as follows:

Plaintiff creates unique 2-dimensional graphic artworks for use on textiles and garments. Plaintiff owns these designs exclusively. Plaintiff conducts sales of products bearing these designs for profit. Plaintiff's business is predicated on their ownership of these designs. Plaintiff spends a substantial amount of time, resources, and goodwill creating, marketing, and selling either these designs or products that bear these designs.

1 Plaintiff's vendors take Plaintiff's design samples with the understanding that
2 they will only utilize Plaintiff to reproduce said designs, and will not make any
3 changes to Plaintiff's intellectual property. No party is authorized to make sales of
4 products bearing Plaintiff's designs without Plaintiff's express written permission.

5 Plaintiff brings this action to recover damages for direct, vicarious, and
6 contributory copyright infringement arising out of the misappropriation of
7 Plaintiff's exclusive designs by the Defendants, and each of them.

8 9 JURISDICTION AND VENUE

10 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. §
11 101 et seq.

12 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331,
13 1338(a) and (b).

14 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c)
15 and 1400(a) in that this is the judicial district in which a substantial part of the acts
16 and omissions giving rise to the claims occurred.

17 18 PARTIES

19 4. JITRADE INC., ("Plaintiff") is a corporation organized and existing
20 under the laws of California, with its principal place of business at 6279 E. Slauson
21 Ave. #408, Commerce, CA 90040.

22 5. Plaintiff is informed and believes and thereon alleges that Defendant
23 WHOLESALFASHIONSQUARE.COM, INC. ("WHOLESALE FASHION
24 SQUARE"), a California Corporation, is, and at all times herein mentioned was, a
25 corporation, organized and existing under the laws of California and doing business
26 in California, with its principal place of business at 4927 Alcoa Ave., Vernon,
27 California, 90058.
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1 6. Named Defendants, and DOES 1-10, may be collectively referred to as
2 “Defendants.”

3 7. Plaintiff is informed and believes and thereon alleges that some of
4 Defendants DOES 1 through 5, inclusive, are manufacturers and/or vendors of
5 garments to Defendant, which Defendants DOES 1 through 5 have manufactured
6 and/or supplied and are manufacturing and/or supplying garments comprised of
7 fabric printed with Plaintiff’s copyrighted design(s) (as hereinafter defined) without
8 Plaintiff’s knowledge or consent or have contributed to said infringement. The true
9 names, whether corporate, individual or otherwise, and capacities of Defendants
10 sued herein as DOES 1 through 5 are presently unknown to Plaintiff at this time,
11 and therefore, Plaintiff sues said Defendants by such fictitious names. Plaintiff will
12 seek leave to amend this complaint to allege their true names and capacities when
13 the same have been ascertained. Plaintiff is informed and believes, and based
14 thereon alleges, that each of Defendants designated as a DOE is responsible in some
15 manner for the events alleged herein and the damages caused thereby.

16 8. Defendants DOES 6 through 10, inclusive, are other parties not yet
17 identified who have infringed Plaintiff’s copyrights, have contributed to the
18 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
19 wrongful practices alleged herein. The true names, whether corporate, individual or
20 otherwise, and capacities of Defendants sued herein as DOES 6 through 10 are
21 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said
22 Defendants by such fictitious names. Plaintiff will seek leave to amend this
23 complaint to allege their true names and capacities when the same have been
24 ascertained.

25 9. Plaintiff is informed and believes and thereupon alleges that at all
26 times relevant hereto each of the Defendants acted in concert with each other, was
27 the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee
28 of the remaining Defendants and was at all times acting within the scope of such

1 agency, affiliation, alter-ego relationship and/or employment; and actively
2 participated in or subsequently ratified and adopted, or both, each and all of the acts
3 or conducts alleged, with full knowledge of all the facts and circumstances,
4 including without limitation to full knowledge of each and every wrongful conducts
5 and Plaintiff's damages caused therefrom.
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7 CLAIMS RELATED TO DESIGN

8 10. Plaintiff is the owner and author of two-dimensional artworks under
9 title "SND1604_6." ("Subject Design"). (**Exhibit A**).

10 11. Plaintiff has a registered copyright from the United States Copyright
11 Office for the Subject Designs and was granted Registration No. VA 2-047-104 on
12 March 3, 2017. (**Exhibit B**).

13 12. Plaintiff formatted the Subject Design for use on textiles, sampled the
14 Subject Design, and negotiated sales of fabric bearing the Subject Design.

15 13. Plaintiff is informed and believes and thereon alleges that, without
16 Plaintiff's authorization, Defendants purchased, sold, marketed, advertised,
17 manufactured, caused to be manufactured, imported and/or distributed fabric and/or
18 garments comprised of fabric featuring a design which is identical, or substantially
19 similar to, the Subject Design. A true and correct copy of such garments sold by
20 WHOLESALE FASHION SQUARE is attached hereto as **Exhibit C**. Said
21 garments include but are not limited to garments sold by WHOLESALE FASHION
22 SQUARE.

23 14. At various times Defendants owned and controlled offline and/or
24 online retail stores, and each of them, Plaintiff's investigation revealed that
25 garments comprised of fabric bearing the Subject Design were being offered for
26 sale, garments which were manufactured and/or imported under the direction of the
27 Defendants, and each of them.
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1 15. None of the aforementioned transactions were authorized by Plaintiff,
2 and all were in violation of Plaintiff's intellectual property rights.

3
4 **FIRST CLAIM FOR RELIEF**

5 (For Copyright Infringement – Against all Defendants, and Each)

6 16. Plaintiff repeats, re-alleges and incorporates herein by reference as
7 though fully set forth the allegations contained hereto, inclusive, of this Complaint.

8 17. Plaintiff is informed and believes and thereon alleges that Defendants,
9 and each of them, accessed the Subject Design(s) through, without limitation, the
10 following: (a) access to Plaintiff's design library; (b) access to authorized or
11 unauthorized reproductions in the possession of other vendors and/or DOE
12 Defendants; and (c) access to Plaintiff's strike-offs, swatches, paper CADs and
13 samples.

14 18. Plaintiff is informed and believes and thereon alleges that Defendants,
15 and each of them, infringed Plaintiff's copyright by importing, marketing,
16 advertising, creating, making and/or developing directly infringing and/or
17 derivative works from the Subject Design and by importing, producing, distributing
18 and/or selling infringing garments through a nationwide network of retail stores,
19 catalogues, and online websites.

20 19. Due to Defendants' acts of infringement, Plaintiff has suffered
21 substantial damages to its business in an amount to be established at trial.

22 20. Due to Defendants' acts of infringement, Plaintiff has suffered general
23 and special damages to its business in an amount to be established at trial.

24 21. Due to Defendants' acts of copyright infringement as alleged herein,
25 Defendants, and each of them, have obtained direct and indirect profits they would
26 not otherwise have realized but for their infringement of the Subject Design(s). As
27 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
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1 indirectly attributable to Defendants' infringement of the Subject Design in an
2 amount to be established at trial.

3 22. Plaintiff is informed and believes and thereon alleges that Defendants,
4 and each of them, have committed acts of infringement alleged herein with actual or
5 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
6 finding of willful infringement.

7 8 **SECOND CLAIM FOR RELIEF**

9 (For Vicarious Copyright Infringement – Against All Defendants)

10 23. Plaintiff repeats, re-alleges and incorporates herein by reference as
11 though fully set forth the allegations contained hereto, inclusive, of this Complaint.

12 24. Plaintiff is informed and believes and thereon alleges that Defendants,
13 and each of them, are vicariously liable for the infringement alleged herein because
14 they had the right and ability to supervise the direct infringing conduct by their
15 authority, ability, and/or control to request, change, suggest, or decline the design
16 featured on the accused garment.

17 25. Plaintiff is informed and believes and thereon alleges that the
18 Defendants had a direct financial interest in the infringer's activity by profiting
19 from featuring the desirable Subject Design(s) on the accused garment while
20 declining to exercise their right and/or obligation to stop or limit the infringement
21 by requesting, changing, or suggesting a different design or declining to buy the
22 garment featuring the Subject Design.

23 26. By reason of the Defendants', and each of their, acts of vicarious
24 infringement as alleged above, Plaintiff has suffered and will continue to suffer
25 substantial damages to its business in an amount to be established at trial, as well as
26 additional general and special damages in an amount to be established at trial.

27 27. Due to Defendants' acts of vicarious copyright infringement as alleged
28 herein, Defendants, and each of them, have obtained direct and indirect profits they

1 would have not otherwise realized bur for their infringement of the Subject
2 Design(s). As such, Plaintiff is entitled to disgorgement of Defendants' profits
3 directly and indirectly attributable to Defendants' infringement of the Subject
4 Design, an amount to be established at trial.

5 28. Plaintiff is informed and believes and thereon alleges that Defendants,
6 and each of them, have committed acts of infringement alleged herein with actual or
7 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
8 finding of willful infringement.

10 **THIRD CLAIM FOR RELIEF**

11 (Contributory Copyright Infringement– Against All Defendants)

12 29. Plaintiff repeats, re-alleges and incorporates herein by reference as
13 though fully set forth the allegations contained hereto, inclusive, of this Complaint.

14 30. Plaintiff is informed and believes and thereon alleges that Defendants,
15 and each of them, knowingly induced, caused, materially contributed to,
16 participated in, encourages, aided and abetted in and resultantly profited from the
17 illegal reproduction, importation, purchase, marketing, advertising, distribution
18 and/or sales of product featuring the Subject Design(s) as alleged herein above.

19 31. By reason of the Defendants', and each of their, acts of contributory
20 copyright infringement as alleged above, Plaintiff has suffered and will continue to
21 suffer substantial damages to its business in an amount to established at trial, as
22 well as additional general and special damages in an amount to be established at
23 trial.

24 32. Due to Defendants' acts of contributory copyright infringement as
25 alleged herein, Defendants, and each of them, have obtained direct and indirect
26 profits they would have not otherwise realized bur for their infringement of the
27 Subject Design(s). As such, Plaintiff is entitled to disgorgement of Defendants'
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1 profits directly and indirectly attributable to Defendants' infringement of the
2 Subject Design(s), an amount to be established at trial.

3 33. Plaintiff is informed and believes and thereon alleges that Defendants,
4 and each of them, have committed acts of infringement alleged herein with actual or
5 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
6 finding of willful infringement.

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8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

10 Against All Defendants With respect to Each Claim for Relief:

11 1. That Defendants, their agents and servants be enjoined from infringing
12 Plaintiff's copyrights in any manner;

13 2. That Plaintiff be awarded all profits of Defendants plus all losses of
14 Plaintiff, the exact sum to be proven at time of trial as available under 17 U.S.C. §
15 504(b), or, if elected before final judgment, statutory damages as available under
16 the Copyright Act, 17 U.S.C. § 504(c);

17 3. That Plaintiff be awarded its attorneys' fees as available under the
18 Copyright Act, 17 U.S.C. § 101 *et seq.*;

19 4. That Plaintiff be awarded pre-judgment interest as allowed by law;

20 5. That Plaintiff be awarded costs of litigation; and

21 6. That Plaintiff be awarded such further legal and equitable relief as the
22 Court deems proper.

23
24 **DEMAND FOR JURY TRIAL**

25 In accordance with Fed. R. Civ. P. 38(b), Defendant demands a trial by jury
26 on all issues so triable.

1 **DATED:** December 26, 2018

LPL LAWYERS

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4 BY: 

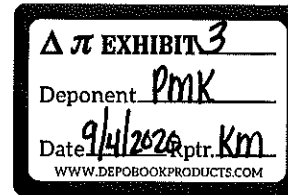
Ginam Lee, Esq.

5 Jeffrey Kim, Esq.

6 Attorneys for PLAINTIFF JITRADE INC.

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GOLD VALUE INTERNATIONAL
TEXTILE, INC., a California Corporation,
individually, and doing business as
"FIESTA FABRIC,"

Plaintiff,

vs.

ZULILY, LLC, a Washington Limited
Liability Company;
WHOLESALEFASHIONSQUARE.COM,
INC., a California Corporation; LANESRA,
INC., a California Corporation; MAY &
JULY, INC., a California Corporation;
ELAD IMPORT INC., a California
Corporation; LI YUAN TEXTILE AND
APPAREL, INC., individually and d/b/a
"Reborn Collection," a New York
Corporation; and DOES 1-10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT
INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

1 Plaintiff, GOLD VALUE INTERNATIONAL TEXTILE, INC., a California
2 Corporation, individually, and doing business as "FIESTA FABRIC" (collectively
3 "Fiesta") by and through its undersigned attorneys, hereby prays to this honorable
4 Court for relief based on the following:

5 **JURISDICTION AND VENUE**

6 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
7 *et seq.*

8 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
9 1338 (a) and (b).

10 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
11 1400(a) in that this is the judicial district in which a substantial part of the acts and
12 omissions giving rise to the claims occurred.

13 **PARTIES**

14 4. Fiesta is a corporation organized and existing under the laws of the State of
15 California.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant Zulily,
17 LLC ("Zulily") is a limited liability company organized and existing under the laws
18 of the State of Washington with its principal place of business located at 2601 Elliott
19 Avenue, Seattle, Washington 98121 and is doing business in and with the State of
20 California

21 6. Plaintiff is informed and believes and thereon alleges that Defendant
22 Wholesalefashionsquare.com, Inc. ("Wholesale") is a corporation organized and
23 existing under the laws of the State of California with its principal place of business
24 located at 4927 Alcoa Avenue, Vernon, California 90058.

25 7. Plaintiff is informed and believes and thereon alleges that Defendant
26 Lanesra, Inc. ("Lanesra") is a corporation organized and existing under the laws of
27

1 the State of California with its principal place of business located at 738 East 14th
2 Street, Suite C, Los Angeles, California 90015.

3 8. Plaintiff is informed and believes and thereon alleges that Defendant May
4 & July, Inc. ("May&July") is a corporation organized and existing under the laws of
5 the State of California with its principal place of business located at 777 East 12th
6 Street, Suite 1-1, Los Angeles, California 90021.

7 9. Plaintiff is informed and believes and thereon alleges that Defendant Elad
8 Import Inc. ("Elad") is a corporation organized and existing under the laws of the
9 State of California with its principal place of business located at 788 East 12th Street,
10 Los Angeles, California 90021.

11 10. Plaintiff is informed and believes and thereon alleges that Defendant Li
12 Yuan Textile and Apparel, Inc., individually and doing business as "Reborn
13 Collection" ("Reborn") is a corporation organized and existing under the laws of the
14 State of New York with its principal place of business located at 602 39th Street,
15 Suite 205, Brooklyn, New York, 11232 and is doing business in and with the State of
16 California.

17 11. Plaintiff is informed and believes and thereon alleges that Defendants
18 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
19 Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights,
20 or have engaged in one or more of the wrongful practices alleged herein. The true
21 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
22 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
23 by such fictitious names, and will seek leave to amend this Complaint to show their
24 true names and capacities when same have been ascertained.

25 12. Plaintiff is informed and believes and thereon alleges that at all times
26 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
27 manager, principal, alter-ego, and/or employee of the remaining Defendants and was

1 at all times acting within the scope of such agency, affiliation, alter-ego relationship
2 and/or employment; and actively participated in or subsequently ratified and/or
3 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
4 circumstances, including, but not limited to, full knowledge of each violation of
5 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

6 **CLAIMS RELATED TO DESIGN 1461**

7 13. Plaintiff owns an original two-dimensional artwork used for purposes of
8 textile printing entitled 1461 ("Subject Design A") that has been registered with the
9 United States Copyright Office.

10 14. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
11 bearing Subject Design A to numerous parties in the fashion and apparel industries.

12 15. Plaintiff is informed and believes and thereon alleges that following its
13 distribution of Subject Design A, Zulily, Wholesale, Lanesra, May&July, DOE
14 Defendants, and each of them distributed and/or sold fabric and/or garments
15 featuring a design which is substantially similar to Subject Design A without
16 Plaintiff's authorization, including but not limited to:

- 17 a) garments sold by Zulily under SKU No. 49340995 bearing the label
18 "Lanesra", indicating that said garments were manufactured by Wholesale
19 for Lanesra (hereinafter "Subject Product A1");
20 b) garments sold by Zulily under the item description "Blue & Ivory Tie-Dye
21 Lace-Accent Romper" bearing the label "May & July" and RN 142377,
22 indicating that said garments were manufactured by or for May&July
23 (hereinafter "Subject Product A2").

24 16. An image of Subject Design A and non-exclusive exemplars of Subject
25 Product A1 and Subject Product A2 are set forth hereinbelow. The below
26 comparisons make clear that the overall look and feel and constituent elements of the
27 designs are substantially similar.

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SUBJECT DESIGN A	SUBJECT PRODUCT A1
	<p data-bbox="797 302 1430 338">Zulily/Wholesale/Lanesra Garment Detail</p>  

SUBJECT DESIGN A



SUBJECT PRODUCT A2

Zulily/May&July Garment Detail



CLAIMS RELATED TO DESIGN A100633

17. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled A100633 (“Subject Design B”) that has been registered with the United States Copyright Office.

18. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design B to numerous parties in the fashion and apparel industries.

19. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design B, Zulily, Elad, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design B (hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not limited to garments sold by Zulily under the product description “Blue & Gray Geometric Cap-Sleeve Maxi Dress” bearing the label “Love Kuza” and RN 118673, indicating that said garments were manufactured by or for Elad.

20. An image of Subject Design B and one non-exclusive exemplar of Subject Product B are set forth hereinbelow. The below comparison makes clear that the overall look and feel and constituent elements of the designs are substantially similar.

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SUBJECT DESIGN B	SUBJECT PRODUCT B
<p data-bbox="509 323 602 359">Detail</p> 	<p data-bbox="980 338 1393 373">Zulily/Elad Garment Detail</p> 
	

CLAIMS RELATED TO DESIGN 1829

21. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 1829 (“Subject Design C”) that has been registered with the United States Copyright Office.

22. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design C to numerous parties in the fashion and apparel industries.

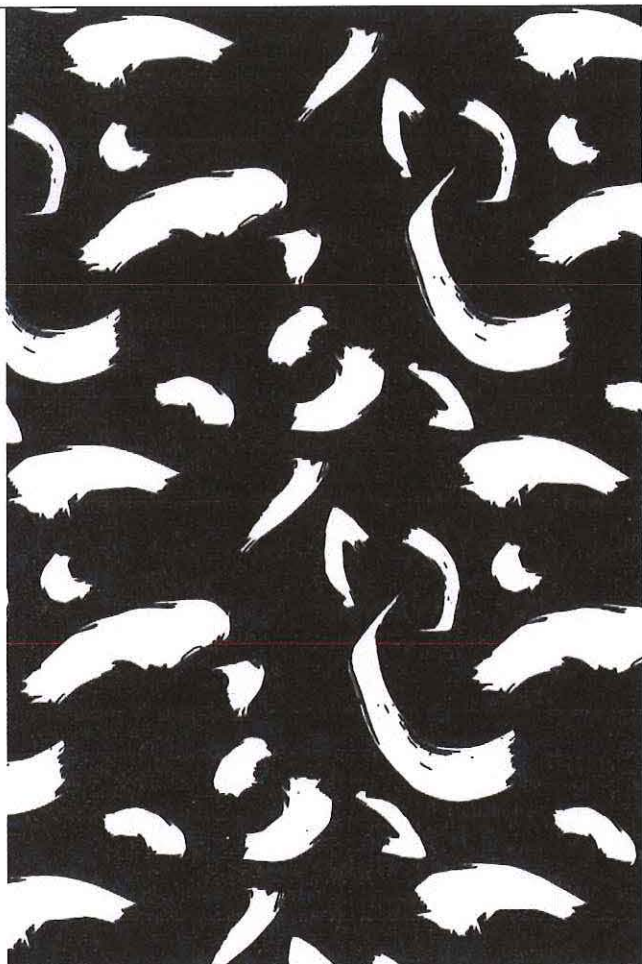
23. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design C, Zulily, Reborn, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design C (hereinafter “Subject Product C”) without Plaintiff’s authorization, including but not limited to garments sold by Zulily under SKU number 37025373 and bearing the label “Reborn”, indicating that said garments were manufactured by or for Reborn.

24. An image of Subject Design C and one non-exclusive exemplar of Subject Product C are set forth hereinbelow. The below comparison makes clear that the overall look and feel and constituent elements of the designs are substantially similar.

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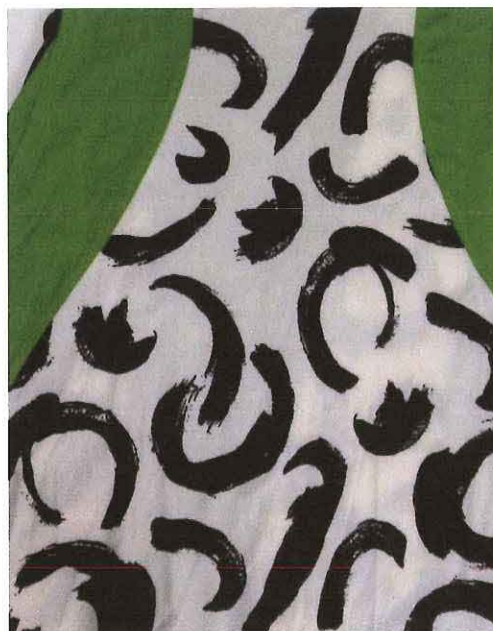
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SUBJECT DESIGN C



SUBJECT PRODUCT C

Zulily/Reborn Garment Detail



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

25. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design A, Subject Design B and/or Subject Design C (collectively, the "Subject Designs") including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Designs.

27. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s), and each of them, has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailers, which garments infringed Subject Designs in that said garments were composed of fabric which featured unauthorized print designs that were identical or substantially similar to Subject Designs, or were an illegal modification thereof.

28. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from Subject Designs and by producing, distributing and/or selling Subject Products through a nationwide network of retail stores, catalogues, and through on-line websites.

31. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.

(For Vicarious and Contributory Copyright Infringement - Against All Defendants)

33. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of garments featuring Subject Designs as alleged herein.

12
COMPLAINT

1 had the right and ability to supervise the infringing conduct and because they had a
2 direct financial interest in the infringing conduct.

3 35. By reason of the Defendants', and each of their, acts of contributory and
4 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
5 suffer substantial damages to its business in an amount to be established at trial, as
6 well as additional general and special damages in an amount to be established at
7 trial.

8 36. Due to Defendants', and each of their acts of copyright infringement as
9 alleged herein, Defendants, and each of them, have obtained direct and indirect
10 profits they would not otherwise have realized but for their infringement of Subject
11 Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
12 and indirectly attributable to Defendants' infringement of Subject Designs, in an
13 amount to be established at trial.

14 37. Plaintiff is informed and believes and thereon alleges that Defendants, and
15 each of them, have committed acts of copyright infringement, as alleged above,
16 which were willful, intentional and malicious, which further subjects Defendants,
17 and each of them, to liability for statutory damages under Section 504(c)(2) of the
18 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
19 infringement. Within the time permitted by law, Plaintiff will make its election.

20 **PRAYER FOR RELIEF**

21 Wherefore, Plaintiff prays for judgment as follows:

22 **Against All Defendants**

23 **38. With Respect to Each Claim for Relief**

- 24 a. That Defendants, their agents and employees be enjoined from
25 infringing Plaintiff's copyrights in any manner, specifically those for the
26 Subject Designs;

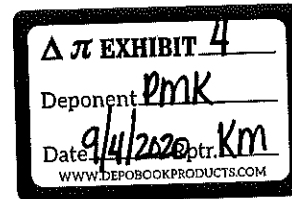
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 505 et seq.;
- c. That a trust be imposed over the revenues derived by Defendants, and each of them, through the sales or distribution of the product at issue;
- d. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17 U.S.C. § 505 et seq.;
- e. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;
- f. That Plaintiff be awarded pre-judgment interest as allowed by law;
- g. That Plaintiff be awarded the costs of this action; and
- h. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Respectfully submitted,

Dated: October 29, 2018

By: /s/ Scott Alan Burroughs
Scott Alan Burroughs, Esq.
Trevor W. Barrett, Esq.
Justin M. Gomes, Esq.
DONIGER / BURROUGHS
Attorney for Plaintiff



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8 Attorneys for Plaintiff JITRADE INC

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
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14 JITRADE INC, a California
15 Corporation;

16 Plaintiff,

17 vs.

18 EN COREE USA, INC. d/b/a THE
19 SANG CLOTHING, a California
20 Corporation; SANG BAE HAN, an
21 Individual; SCOTT CHONGYANG
22 KIM, an Individual;
23 WHOLESALFASHIONSQUARE.CO
24 M, INC., a California Corporation;
25 MICHAEL S KREMERMAN, an
26 Individual; and DOES 1-10, inclusive,

27 Defendants.
28

Case Number: 2:18-cv-08938

PLAINTIFF'S COMPLAINT FOR:

- 1. COPYRIGHT INFRINGEMENT**
- 2. VICARIOUS COPYRIGHT INFRINGEMENT**
- 3. CONTRIBUTORY COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

1 Plaintiff JITRADE INC (“Plaintiff” or “JITRADE”) by and through its
2 undersigned attorneys, hereby prays to this honorable Court for relief and remedy
3 based on the following:

4 **INTRODUCTION**

5 Plaintiff creates, or purchases and obtains, exclusive rights to unique two-
6 dimensional graphic artworks for use on textiles and garments, and those textiles
7 and garments are transacted primarily in the fashion industry. Plaintiff owns these
8 designs in exclusivity and makes sales of products bearing these designs for profit.
9 Plaintiff’s business is predicated on its ownership of these designs and it spends a
10 considerable amount of time and resources creating and obtaining top-quality,
11 marketable and aesthetically-appealing designs. Customers of Plaintiff, including
12 possibly DOE defendants named herein, take design samples with the
13 understanding and agreement that they will only utilize Plaintiff to reproduce said
14 designs should they wish to do so, and will not seek to make minor changes to
15 Plaintiff’s proprietary work to reproduce the same elsewhere, yet use those designs
16 in furtherance of their business in violation of both their contractual agreement
17 with Plaintiff and Plaintiff’s copyrights. No other party is authorized to make sales
18 of product bearing Plaintiff’s proprietary designs without express permission from
19 Plaintiff. This action is brought to recover damages for direct, vicarious and
20 contributory copyright infringement arising out of the misappropriation of
21 Plaintiff’s exclusive designs by the Defendants, and each of them.

22 **JURISDICTION AND VENUE**

- 23
- 24 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et*
25 *seq.*
 - 26 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a)
27 and (b).
- 28

3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. JITRADE INC (“Plaintiff”) is a corporation organized and existing under the laws of the State of California with its principal place of business in the County of Los Angeles, at 6279 E. Slauson Ave #408, Commerce, CA 90040.

5. Plaintiff is informed and believes and thereon alleges that Defendant EN COREE USA, INC. d/b/a THE SANG CLOTHING (“THE SANG”), is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California, registered and doing business in California, with its principal place of business at 807 E. 12Th St. Unit 135, Los Angeles, CA 90021.

6. Plaintiff is informed and believes and thereon alleges that Defendant SANG BAE HAN (“HAN”), is, and at all times herein mentioned was, an individual residing in Los Angeles, California. Plaintiff is informed and believes and thereon alleges that Defendant HAN is, and at all times herein mentioned was, the owner and principal of THE SANG with its principal place of business at 807 E. 12Th St. Unit 135, Los Angeles, CA 90021.

7. Plaintiff is informed and believes and thereon alleges that Defendant SCOTT CHONGYANG KIM (“KIM”), is, and at all times herein mentioned was, an individual residing in Northridge, California. Plaintiff is informed and believes and thereon alleges that Defendant KIM is, and at all times herein mentioned was, the owner and principal of CNS AMERICA, INC. (“CNS”), a Dissolved business entity, with its principal place of business at 20802 Lugano way, Northridge, CA 91326.

- 1 8. Plaintiff is informed and believes and thereon alleges that Defendant
2 WHOLESaleFASHIONSQUARE.COM, INC. ("WFS"), is, and at all times
3 herein mentioned was, a corporation organized and existing under the laws of
4 the State of California, registered and doing business in California, with its
5 principal place of business at 4297 Aloca Ave., Vernon, CA 90058.
- 6 9. Plaintiff is informed and believes and thereon alleges that Defendant
7 MICHAEL S KREMERMAN ("KREMERMAN"), is, and at all times herein
8 mentioned was, an individual residing in Los Angeles, California. Plaintiff is
9 informed and believes and thereon alleges that Defendant KREMERMAN is,
10 and at all times herein mentioned was, the owner and principal of WFS with its
11 principal place of business at 4297 Aloca Ave., Vernon, CA 90058.
- 12 10. Named Defendants, and Does 1-10, may be collectively referred to as
13 "Defendants."
- 14 11. Plaintiff is informed and believes and thereon alleges that some of Defendants
15 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to
16 Defendant, which DOE Defendants have manufactured and/or supplied and are
17 manufacturing and/or supplying garments comprised of fabric printed with
18 Plaintiff's copyrighted design(s) (as hereinafter defined) without Plaintiff's
19 knowledge or consent or have contributed to said infringement. The true
20 names, whether corporate, individual or otherwise, and capacities of defendants
21 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,
22 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff
23 will seek leave to amend this complaint to allege their true names and capacities
24 when the same have been ascertained. Plaintiff is informed and believes, and
25 based thereon alleges, that each of defendants designated as a DOE is
26 responsible in some manner for the events alleged herein and the damages
27 caused thereby.
- 28 12. Defendants DOES 4 through 10, inclusive, are other parties not yet identified

1 who have infringed Plaintiff's copyrights, have contributed to the infringement
2 of Plaintiff's copyrights, or have engaged in one or more of the wrongful
3 practices alleged herein. The true names, whether corporate, individual or
4 otherwise, and capacities of defendants sued herein as Does 4 through 10 are
5 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said
6 defendants by such fictitious names. Plaintiff will seek leave to amend this
7 complaint to allege their true names and capacities when the same have been
8 ascertained.

9 13. Plaintiff is informed and believes and thereupon alleges that at all times
10 relevant hereto each of Defendants acted in concert with each other, was the
11 agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee
12 of the remaining defendants and was at all times acting within the scope of such
13 agency, affiliation, alter-ego relationship and/or employment; and actively
14 participated in or subsequently ratified and adopted, or both, each and all of the
15 acts or conducts alleged, with full knowledge of all the facts and circumstances,
16 including without limitation to full knowledge of each and every wrongful
17 conducts and Plaintiff's damages caused therefrom.

18 CLAIMS RELATED TO DESIGN

19
20 14. Plaintiff is the owner and author of two-dimensional artworks called
21 "SND1610_18A"; "SND1610_18B"; and "SND1604_6". ("Subject Designs").
22 (Exhibit A).

23 15. Plaintiff applied for copyrights from the United States Copyright Office for the
24 Subject Design "SND1610_18A" with Registration no. VA0002052596
25 effective on May 31, 2017; "SND1610_18B" with Registration no. VA 2-052-
26 595 effective on May 31, 2017; and "SND1604_6" with Registration no. VA 2-
27 047-104 effective on March 3, 2017 (Exhibit B).
28

1 16.Plaintiff formatted the Subject Design for use on textiles, sampled the Subject
2 Design, and negotiated sales of fabric bearing the Subject Design.

3 17.Plaintiff is informed and believes and thereon alleges that Defendants, each of
4 them, had access to the Subject Designs, including without limitation, through:
5 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally
6 distributed copies of the Subject Designs by third-party vendors and/or DOE
7 Defendants, including without limitation international and/or overseas
8 converters and printing mills; (c) access to Plaintiff's strike-offs and samples;
9 and (d) access to garments in the marketplace manufactured with lawfully
10 printed fabric bearing the Subject Designs.

11 18.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
12 authorization, Defendant WFS purchased, sold, marketed, advertised,
13 manufactured, caused to be manufactured, imported and/or distributed fabric
14 and/or garments comprised of fabric featuring a design which is identical, or
15 substantially similar to, the Subject Design. A true and correct copy of such a
16 garment is attached hereto as Exhibit C. Said garments include but are not
17 limited to garments sold by WFS under Product code CN414004; CN414001;
18 CN414002; and CN366748.

19 19.At various times Defendant WFS owned and controlled offline and/or online
20 retail stores, and each, Plaintiff's investigation revealed that garments
21 comprised of fabric bearing the Subject Design were being offered for sale,
22 garments which were manufactured and/or imported under the direction of the
23 Defendants, and each of them.

24 20.Plaintiff is informed and believes and thereon alleges that Defendant
25 KREMERMAN as the principal and the owner had the control over WFS and
26 its business transactions, and knowingly participated in WFS's purchase,
27 online/offline sale, online/offline marketing, online/offline advertising,
28 manufacturing, causing to be manufactured, importing and/or online/offline

1 distributing fabric and/or garments comprised of fabric featuring a design which
2 is identical, or substantially similar to, the Subject Design.

3 21. None of the aforementioned transactions were authorized by Plaintiff, and all
4 were in violation of Plaintiff's intellectual property rights.

5
6 **FIRST CLAIM FOR RELIEF**

7 (For Copyright Infringement – Against all Defendants, and Each)

8 22. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
9 set forth the allegations contained in Paragraphs 1 through 21, inclusive, of this
10 Complaint.

11 23. Plaintiff is informed and believes and thereon alleges that Defendants, and each
12 of them, accessed the Subject Design through, without limitation, the following:
13 (a) access to Plaintiff's design library; (b) access to authorized or unauthorized
14 reproductions in the possession of other vendors and/or DOE Defendants; and
15 (c) access to Plaintiff's strike-offs, swatches, paper CADs and samples.

16 24. Plaintiff is informed and believes and thereon alleges that Defendants, and each
17 of them, infringed Plaintiff's copyright by importing, creating, marketing,
18 advertising, making, and/or developing directly infringing and/or derivative
19 works from the Subject Design and by importing, producing, distributing and/or
20 selling infringing garments through a nationwide network of retail stores,
21 catalogues, and online websites.

22 25. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
23 damages to its business in an amount to be established at trial.

24 26. Due to Defendants' acts of infringement, Plaintiff has suffered general and
25 special damages to its business in an amount to be established at trial.

26 27. Due to Defendants' acts of copyright infringement as alleged herein,
27 Defendants, and each of them, have obtained direct and indirect profits they
28 would not otherwise have realized but for their infringement of the Subject

1 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
2 directly and indirectly attributable to Defendants' infringement of the Subject
3 Design in an amount to be established at trial.

4 28. Plaintiff is informed and believes and thereon alleges that Defendants, and each
5 of them, have committed acts of infringement alleged herein with actual or
6 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
7 finding of willful infringement.

8
9 **SECOND CLAIM FOR RELIEF**

10 (For Vicarious Copyright Infringement – Against All Defendants)

11 29. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
12 set forth the allegations contained in Paragraphs 1 through 28, inclusive, of this
13 Complaint.

14 30. Plaintiff is informed and believes and thereon alleges that Defendants, and each
15 of them, knowingly induced, participated in, aided and abetted in and
16 resultantly profited from the illegal reproduction, importation, purchase,
17 marketing, advertisement, distribution and/or sales of product featuring the
18 Subject Design as alleged herein above.

19 31. Plaintiff is informed and believes and thereon alleges that Defendants, and each
20 of them, are vicariously liable for the infringement alleged herein because they
21 had the right and ability to supervise the infringing conduct and because they
22 had a direct financial interest in the infringing product.

23 32. By reason of the Defendants', and each of their, acts of contributory and/or
24 vicarious infringement as alleged above, Plaintiff has suffered and will continue
25 to suffer substantial damages to its business in an amount to be established at
26 trial, as well as additional general and special damages in an amount to be
27 established at trial.

33. Due to Defendants' acts of contributory and/or vicarious copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would have not otherwise realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, an amount to be established at trial.

34. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of infringement alleged herein with actual or constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

THIRD CLAIM FOR RELIEF

(Contributory Copyright Infringement— Against All Defendants)

35. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained heretofore, inclusive, of this Complaint.

36. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly induced, caused, materially contributed to, participated in, encourages, aided and abetted in and resultantly profited from the illegal reproduction, importation, purchase, marketing, advertising, distribution and/or sales of product featuring the Subject Design as alleged herein above.

37. By reason of the Defendants', and each of their, acts of contributory copyright infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

38. Due to Defendants' acts of contributory copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits

1 they would have not otherwise realized but for their infringement of the Subject
2 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
3 directly and indirectly attributable to Defendants' infringement of the Subject
4 Design, an amount to be established at trial.

5 39. Plaintiff is informed and believes and thereon alleges that Defendants, and each
6 of them, have committed acts of infringement alleged herein with actual or
7 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
8 finding of willful infringement.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

12
13 **Against All Defendants**

14 With respect to Each Claim for Relief:

- 15 1. That Defendants, their agents and servants be enjoined from infringing
16 Plaintiff's copyrights in any manner;
17 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff,
18 the exact sum to be proven at time of trial, or, if elected before final judgment,
19 statutory damages as available under the Copyright Act, 17 U.S.C. § 101 *et*
20 *seq.*;
21 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright
22 Act, 17 U.S.C. § 101 *et seq.*;
23 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
24 5. That Plaintiff be awarded costs of litigation; and
25 6. That Plaintiff be awarded such further legal and equitable relief as the Court
26 deems proper.

27 **DEMAND FOR TRIAL BY JURY**
28

1 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of
2 Civil Procedure 38 and the Seventh Amendment of the Constitution.

3
4 Dated: October 16, 2018

Respectfully submitted,

5 /s/C. Yong Jeong

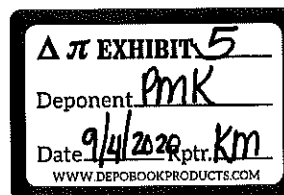
6 C. Yong Jeong, Esq.

7 Regina S. Zernay, Esq.

8 JEONG & LIKENS, L.C.

9 Attorneys for Plaintiff JITRADE INC
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8 Attorney for Plaintiff, C&SM INT'L

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 C&SM INT'L, a South Korea
12 Corporation;

13 Plaintiff,

14 vs.

15 FASHION EDEN d/b/a MAKE ME
16 CHIC, a California Corporation; JOHN
17 CHANG, an individual;
18 WHOLESALEFASHIONSQUARE.CO
19 M, INC., a California Corporation;
20 MICHAEL S KREMERMAN, an
individual; and DOES 1-10, inclusive,

21 Defendants.

Case Number: 2:18-cv-00711-PA-PLA

**PLAINTIFF'S FIRST AMENDED
COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT
2. VICARIOUS COPYRIGHT INFRINGEMENT
3. CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

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23
24
25 Plaintiff C&SM INT'L ("Plaintiff" or "C&SM") by and through its undersigned
26 attorneys, hereby prays to this honorable Court for relief and remedy based on the
27 following:
28

INTRODUCTION

Plaintiff creates, or purchases and obtains, exclusive rights to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is predicated on its ownership of these designs and it spends a considerable amount of time and resources creating and obtaining top-quality, marketable and aesthetically-appealing designs. Customers of Plaintiff, including possibly DOE defendants named herein, take design samples with the understanding and agreement that they will only utilize Plaintiff to reproduce said designs should they wish to do so, and will not seek to make minor changes to Plaintiff's proprietary work to reproduce the same elsewhere, yet use those designs in furtherance of their business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights. No other party is authorized to make sales of product bearing Plaintiff's proprietary designs without express permission from Plaintiff. This action is brought to recover damages for direct, vicarious and contributory copyright infringement arising out of the misappropriation of Plaintiff's exclusive designs by the Defendants, and each of them.

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).
3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. C&SM INT'L ("Plaintiff") is a corporation organized and existing under the laws of South Korea.
5. Plaintiff is informed and believes and thereon alleges that Defendant FASHION EDEN d/b/a MAKE ME CHIC ("FASHION EDEN"), is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California and doing business in California, with its principal place of business at Bldg. 100, 1601 West Mission Boulevard, Pomona, CA 91766.
6. Plaintiff is informed and believes and thereon alleges that Defendant JOHN CHANG ("CHANG"), is, and at all times herein mentioned was, an individual residing in Los Angeles, California. Plaintiff is informed and believes and thereon alleges that Defendant CHANG is, and at all times herein mentioned was, the owner and principal of FASHION EDEN with its principal place of business at Bldg. 100, 1601 West Mission Boulevard, Pomona, CA 91766.
7. Plaintiff is informed and believes and thereon alleges that Defendant WHOLESaleFASHIONSQUARE.COM, INC. ("WSF"), is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California and doing business in California, with its principal place of business at 4927 Alcoa Ave, Vernon, CA 90058.
8. Plaintiff is informed and believes and thereon alleges that Defendant MICHAEL S KREMERMAN ("KREMERMAN"), is, and at all times herein mentioned was, an individual residing in Los Angeles, California. Plaintiff is informed and believes and thereon alleges that Defendant KREMERMAN is, and at all times herein mentioned was, the owner and principal of WSF with its principal place of business at 4927 Alcoa Ave, Vernon, CA 90058.
9. Named Defendants, and Does 1-10, may be collectively referred to as "Defendants."
10. Plaintiff is informed and believes and thereon alleges that some of Defendants

Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to Defendant, which DOE Defendants have manufactured and/or supplied and are manufacturing and/or supplying garments comprised of fabric printed with Plaintiff's copyrighted design(s) (as hereinafter defined) without Plaintiff's knowledge or consent or have contributed to said infringement. The true names, whether corporate, individual or otherwise, and capacities of defendants sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff will seek leave to amend this complaint to allege their true names and capacities when the same have been ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of defendants designated as a DOE is responsible in some manner for the events alleged herein and the damages caused thereby.

11. Defendants DOES 4 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, and capacities of defendants sued herein as Does 4 through 10 are presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff will seek leave to amend this complaint to allege their true names and capacities when the same have been ascertained.

12. Plaintiff is informed and believes and thereupon alleges that at all times relevant hereto each of Defendants acted in concert with each other, was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the

1 acts or conducts alleged, with full knowledge of all the facts and circumstances,
2 including without limitation to full knowledge of each and every wrongful
3 conducts and Plaintiff's damages caused therefrom.

4
5 **CLAIMS RELATED TO DESIGN**

6 13. Plaintiff is the owner and author of a two-dimensional artwork titled "C&SM
7 31". ("Subject Design"). (Exhibit A).

8 14. Plaintiff applied for a copyright from the United States Copyright Office for the
9 Subject Design and was granted Registration No. VA 1-948-951 effective on
10 February 18, 2015. (Exhibit B).

11 15. Plaintiff formatted the Subject Design for use on textiles, sampled the Subject
12 Design, and negotiated sales of fabric bearing the Subject Design.

13 16. Plaintiff is informed and believes and thereon alleges that Defendants, each of
14 them, had access to the Subject Designs, including without limitation, through:
15 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally
16 distributed copies of the Subject Designs by third-party vendors and/or DOE
17 Defendants, including without limitation international and/or overseas
18 converters and printing mills; (c) access to Plaintiff's strike-offs and samples;
19 and (d) access to garments in the marketplace manufactured with lawfully
20 printed fabric bearing the Subject Designs.

21 17. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
22 authorization, Defendant FASHION EDEN purchased, sold, marketed,
23 advertised, manufactured, caused to be manufactured, imported and/or
24 distributed fabric and/or garments comprised of fabric featuring a design which
25 is identical, or substantially similar to, the Subject Design. A true and correct
26 copy of such a garment is attached hereto as Exhibit C. Said garments include
27 but are not limited to garments sold by FASHION EDEN bearing the
28 descriptions "Mixed Print Kimono Sleeve Dress" and "Multicolor Off Shoulder

1 Floral Dress”.

2 18. At various times Defendant FASHION EDEN owned and controlled offline
3 and/or online retail stores, and each, Plaintiff’s investigation revealed that
4 garments comprised of fabric bearing the Subject Design were being offered for
5 sale, garments which were manufactured and/or imported under the direction of
6 the Defendants, and each of them.

7 19. Plaintiff is informed and believes and thereon alleges that Defendant CHANG
8 as the principal and the owner had the control over FASHION EDEN and its
9 business transactions, and knowingly participated in FASHION EDEN’s
10 purchase, online/offline sale, online/offline marketing, online/offline
11 advertising, manufacturing, causing to be manufactured, importing and/or
12 online/offline distributing fabric and/or garments comprised of fabric featuring
13 a design which is identical, or substantially similar to, the Subject Design.

14 20. Plaintiff is informed and believes and thereon alleges that, without Plaintiff’s
15 authorization, Defendant WSF purchased, sold, marketed, advertised,
16 manufactured, caused to be manufactured, imported and/or distributed fabric
17 and/or garments comprised of fabric featuring a design which is identical, or
18 substantially similar to, the Subject Design. A true and correct copy of such a
19 garment is attached hereto as Exhibit C. Said garments include but are not
20 limited to garments sold by WSF.

21 21. At various times Defendant WSF owned and controlled offline and/or online
22 retail stores, and each, Plaintiff’s investigation revealed that garments
23 comprised of fabric bearing the Subject Design were being offered for sale,
24 garments which were manufactured and/or imported under the direction of the
25 Defendants, and each of them.

26 22. Plaintiff is informed and believes and thereon alleges that Defendant
27 KREMERMAN as the principal and the owner had the control over WSF and
28 its business transactions, and knowingly participated in WSF’s purchase,

1 online/offline sale, online/offline marketing, online/offline advertising,
2 manufacturing, causing to be manufactured, importing and/or online/offline
3 distributing fabric and/or garments comprised of fabric featuring a design which
4 is identical, or substantially similar to, the Subject Design.

5 23. None of the aforementioned transactions were authorized by Plaintiff, and all
6 were in violation of Plaintiff's intellectual property rights.

7
8 **FIRST CLAIM FOR RELIEF**

9 (For Copyright Infringement – Against all Defendants, and Each)

10 24. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
11 set forth the allegations contained in Paragraphs 1 through 23, inclusive, of this
12 Complaint.

13 25. Plaintiff is informed and believes and thereon alleges that Defendants, and each
14 of them, accessed the Subject Design through, without limitation, the following:
15 (a) access to Plaintiff's design library; (b) access to authorized or unauthorized
16 reproductions in the possession of other vendors and/or DOE Defendants; and
17 (c) access to Plaintiff's strike-offs, swatches, paper CADs and samples.

18 26. Plaintiff is informed and believes and thereon alleges that Defendants, and each
19 of them, infringed Plaintiff's copyright by importing, creating, marketing,
20 advertising, making, and/or developing directly infringing and/or derivative
21 works from the Subject Design and by importing, producing, distributing and/or
22 selling infringing garments through a nationwide network of retail stores,
23 catalogues, and online websites.

24 27. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
25 damages to its business in an amount to be established at trial.

26 28. Due to Defendants' acts of infringement, Plaintiff has suffered general and
27 special damages to its business in an amount to be established at trial.
28

1 29. Due to Defendants' acts of copyright infringement as alleged herein,
2 Defendants, and each of them, have obtained direct and indirect profits they
3 would not otherwise have realized but for their infringement of the Subject
4 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
5 directly and indirectly attributable to Defendants' infringement of the Subject
6 Design in an amount to be established at trial.

7 30. Plaintiff is informed and believes and thereon alleges that Defendants, and each
8 of them, have committed acts of infringement alleged herein with actual or
9 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
10 finding of willful infringement.

11
12 **SECOND CLAIM FOR RELIEF**

13 (For Vicarious Copyright Infringement – Against All Defendants)

14 31. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
15 set forth the allegations contained in Paragraphs 1 through 30, inclusive, of this
16 Complaint.

17 32. Plaintiff is informed and believes and thereon alleges that Defendants, and each
18 of them, knowingly induced, participated in, aided and abetted in and
19 resultantly profited from the illegal reproduction, importation, purchase,
20 marketing, advertisement, distribution and/or sales of product featuring the
21 Subject Design as alleged herein above.

22 33. Plaintiff is informed and believes and thereon alleges that Defendants, and each
23 of them, are vicariously liable for the infringement alleged herein because they
24 had the right and ability to supervise the infringing conduct and because they
25 had a direct financial interest in the infringing product.

26 34. By reason of the Defendants', and each of their, acts of contributory and/or
27 vicarious infringement as alleged above, Plaintiff has suffered and will continue
28 to suffer substantial damages to its business in an amount to be established at

1 trial, as well as additional general and special damages in an amount to be
2 established at trial.

3 35. Due to Defendants' acts of contributory and/or vicarious copyright infringement
4 as alleged herein, Defendants, and each of them, have obtained direct and
5 indirect profits they would have not otherwise realized but for their
6 infringement of the Subject Design. As such, Plaintiff is entitled to
7 disgorgement of Defendants' profits directly and indirectly attributable to
8 Defendants' infringement of the Subject Design, an amount to be established at
9 trial.

10 36. Plaintiff is informed and believes and thereon alleges that Defendants, and each
11 of them, have committed acts of infringement alleged herein with actual or
12 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
13 finding of willful infringement.

14 15 **THIRD CLAIM FOR RELIEF**

16 (Contributory Copyright Infringement– Against All Defendants)

17 37. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
18 set forth the allegations contained heretofore, inclusive, of this Complaint.

19 38. Plaintiff is informed and believes and thereon alleges that Defendants, and each
20 of them, knowingly induced, caused, materially contributed to, participated in,
21 encourages, aided and abetted in and resultantly profited from the illegal
22 reproduction, importation, purchase, marketing, advertising, distribution and/or
23 sales of product featuring the Subject Design as alleged herein above.

24 39. By reason of the Defendants', and each of their, acts of contributory copyright
25 infringement as alleged above, Plaintiff has suffered and will continue to suffer
26 substantial damages to its business in an amount to be established at trial, as well
27 as additional general and special damages in an amount to be established at
28 trial.

40. Due to Defendants' acts of contributory copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would have not otherwise realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, an amount to be established at trial.

41. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of infringement alleged herein with actual or constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

Against All Defendants

With respect to Each Claim for Relief:

1. That Defendants, their agents and servants be enjoined from infringing Plaintiff's copyrights in any manner;
2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the exact sum to be proven at time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;
3. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;
4. That Plaintiff be awarded pre-judgment interest as allowed by law;
5. That Plaintiff be awarded costs of litigation; and
6. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment of the Constitution.

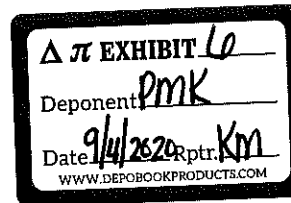
Dated: April 10, 2018

Respectfully submitted,

/s/C. Yong Jeong

C. Yong Jeong, Esq.

Attorney for Plaintiff



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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNIVERSAL DYEING & PRINTING,
INC., a California Corporation,

Plaintiff,

v.

WHOLESALEFASHIONSQUARE.COM,
INC., a California Corporation; and DOES 1
through 10,

Defendants.

Case No.:

**PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

Universal Dyeing & Printing, Inc., by and through its undersigned attorneys,
hereby prays to this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

4. Plaintiff UNIVERSAL DYEING & PRINTING, INC. is a California Corporation.

6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

19 7. Plaintiff is informed and believes and thereon alleges that at all times
20 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
21 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
22 at all times acting within the scope of such agency, affiliation, alter-ego relationship
23 and/or employment; and actively participated in or subsequently ratified and/or
24 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
25 circumstances, including, but not limited to, full knowledge of each violation of
26 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

CLAIMS RELATED TO DESIGN NO. UA 16128

8. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled UA 16128 (“Subject Design”) which has been registered with the United States Copyright Office.

9. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design to numerous parties in the fashion and apparel industries.

10. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design, WHOLESale, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design (hereinafter “Subject Product”) without Plaintiff’s authorization, including but not limited to products sold by WHOLESale under Item Description “115-3-3-DD148APA PEACH GREEN ROMPER 2-2-2,” Product Code CN 183554, and bearing the label “DOROTHY.”

11. A representative image of the Subject Design and a representative image of one exemplar of Subject Product are set forth hereinbelow:

Subject Design



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

12. Plaintiff repeats, realleges and incorporates herein by reference as though

1 fully set forth the allegations contained in the preceding paragraphs of this
2 Complaint.

3 13. Plaintiff is informed and believes and thereon alleges that Defendants, and
4 each of them, had access to the Subject Design, including, without limitation,
5 through (a) access to Plaintiff's showroom and/or design library; (b) access to
6 illegally distributed copies of Subject Designs by third-party vendors and/or DOE
7 Defendants, including without limitation international and/or overseas converters
8 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to
9 garments in the marketplace manufactured with lawfully printed fabric bearing
10 Subject Design.

11 14. Plaintiff is informed and believes and thereon alleges that one or more of
12 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
13 further informed and believes and thereon alleges that said Defendant(s), and each of
14 them, has an ongoing business relationship with Defendant retailers, and each of
15 them, and supplied garments to said retailers, which garments infringed Subject
16 Designs in that said garments were composed of fabric which featured unauthorized
17 print designs that were identical or substantially similar to Subject Design, or were
18 an illegal modification thereof.

19 15. Plaintiff is informed and believes and thereon alleges that Defendants, and
20 each of them, infringed Plaintiff's copyright by creating, making and/or developing
21 directly infringing and/or derivative works from Subject Design and by producing,
22 distributing and/or selling Subject Products through a nationwide network of retail
23 stores, catalogues, and through on-line websites.

24 16. Due to Defendants', and each of their, acts of infringement, Plaintiff has
25 suffered damages in an amount to be established at trial.

26 17. Due to Defendants', and each of their, acts of copyright infringement as
27 alleged herein, Defendants, and each of them, have obtained profits they would not
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1 otherwise have realized but for their infringement of Subject Design. As such,
2 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
3 attributable to the infringement of Subject Design in an amount to be established at
4 trial.

5 18. Plaintiff is informed and believes and thereon alleges that Defendants, and
6 each of them, have committed copyright infringement with actual or constructive
7 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
8 and continue to be, willful, intentional and malicious.

9 **PRAYER FOR RELIEF**

10 Wherefore, Plaintiff prays for judgment as follows:

- 11 a. That Defendants—each of them—and their respective agents and
12 servants be enjoined from importing, manufacturing, distributing,
13 offering for sale, selling or otherwise trafficking in any product that
14 infringes Plaintiff's copyrights in Subject Design;
- 15 b. That Plaintiff be awarded all profits of Defendants, and each of them,
16 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
17 or, if elected before final judgment, statutory damages as available under
18 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 19 c. That Plaintiff be awarded its attorneys' fees as available under the
20 Copyright Act U.S.C. § 101 et seq.;
- 21 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 22 e. That Plaintiff be awarded the costs of this action; and
- 23 f. That Plaintiff be awarded such further legal and equitable relief as the
24 Court deems proper.

1 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
2 38 and the 7th Amendment to the United States Constitution.

3 Dated: April 19, 2017

DONIGER/BURROUGHS

4
5 By: /s/ Stephen M. Doniger
6 Stephen M. Doniger, Esq.
7 Frank Gregory Casella, Esq.
8 Attorneys for Plaintiff
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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNICOLORS, INC., a California
corporation,

Plaintiff,

v.

MODA XPRESS, INC., a Florida
Corporation;
WHOLSESALEFASHIONSQUARE.COM,
INC., a California Corporation; and DOES 1
through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT
INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY
COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff UNICOLORS, INC., by and through its undersigned attorneys, hereby
prays to this honorable Court for relief as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
et seq.

1 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
2 all the facts and circumstances, including, but not limited to, full knowledge of each
3 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
4 caused thereby.

5 **CLAIM RELATED TO DESIGN GT1148**

6 9. Prior to the conduct complained of herein, Plaintiff composed an original
7 two-dimensional artwork for purposes of textile printing, which is set forth
8 hereinbelow. It allocated this artwork Plaintiff's internal design number GT1148
9 (hereinafter the "Subject Design). This artwork was a creation of Plaintiff and/or
10 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
11 Plaintiff.

12 10. Plaintiff applied for and received a United States Copyright Registration
13 for the Subject Design.

14 11. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
15 bearing Subject Design to numerous parties in the fashion and apparel industries. A
16 true and correct image of the Subject Design is presented below:

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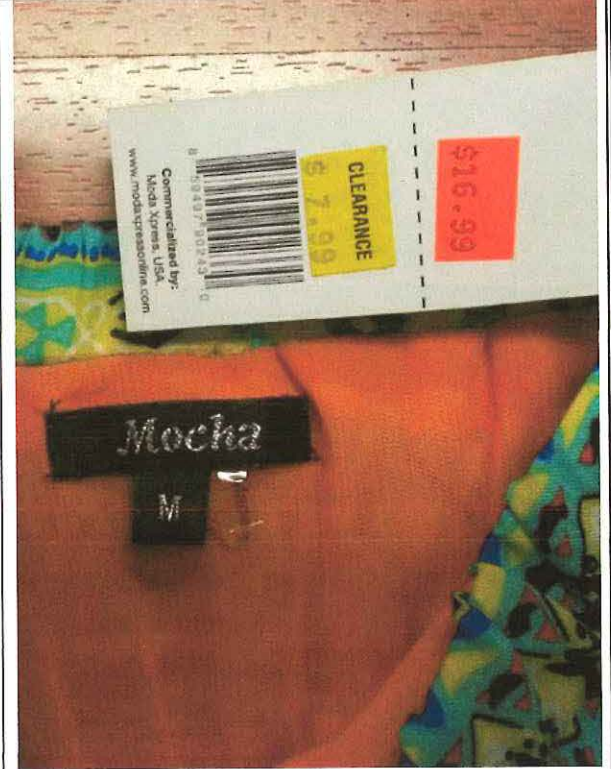
27 ///

Subject Design:



12. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design, WFS, MODA, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of Subject Design (“Subject Product”). Such Subject Product includes but is not limited to garments sold under, inter alia, SKU or UPC 8-59497-90243-0. Such Subject Product bore the “Mocha” label, and identifying information indicating

1 said garments were manufactured by, caused to be manufactured by, or supplied by
2 WFS or a DOE defendant. See below for true and correct images of one such
3 garment with tags:



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18 13. Plaintiff is informed and believes and thereon alleges that Defendants, and
19 each of them, have committed copyright infringement with actual or constructive
20 knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such
21 that said acts of copyright infringement were, and continue to be, willful, intentional
22 and malicious, subjecting Defendants, and each of them, to liability for statutory
23 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
24 hundred fifty thousand dollars (\$150,000) per infringement.

25 14. A comparison of the Subject Design and the non-exclusive exemplar of
26 Subject Product makes apparent that the elements, composition, colors, arrangement,
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layout, and appearance of the designs are substantially similar. See below for a comparison:

Details from SUBJECT DESIGN	Details from SUBJECT PRODUCT
	
	
	

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

15. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters

1 and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments
2 manufactured and sold to the public bearing fabric lawfully printed with the Subject
3 Design by Plaintiff for its customers.

4 17. Plaintiff is informed and believes and thereon alleges that one or more of
5 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
6 further informed and believes and thereon alleges that said Defendant(s) has an
7 ongoing business relationship with Defendant retailers, and each of them, and
8 supplied garments to said retailer, which garments infringed the Subject Design in
9 that said garments were composed of fabric which featured unauthorized print
10 design(s) that were identical or substantially similar to the Subject Design, or were
11 an illegal derivation or modification thereof.

12 18. Plaintiff is informed and believes and thereon alleges that Defendants, and
13 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
14 directly infringing and/or derivative works from the Subject Design and by
15 producing, distributing and/or selling garments which infringe the Subject Design
16 through a nationwide network of retail stores, catalogues, and through on-line
17 websites.

18 19. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
19 damages to its business in an amount to be established at trial.

20 20. Due to Defendants' acts of infringement, Plaintiff has suffered general and
21 special damages in an amount to be established at trial.

22 21. Due to Defendants' acts of copyright infringement as alleged herein,
23 Defendants, and each of them, have obtained direct and indirect profits they would
24 not otherwise have realized but for their infringement of the Subject Design. As
25 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
26 indirectly attributable to Defendants' infringement of the Subject Design in an
27 amount to be established at trial.

22. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of copyright infringement, as alleged above, which were willful, intentional and malicious, which further subjects Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement. Within the time permitted by law, Plaintiff will make its election between actual damages and statutory damages.

SECOND CLAIM FOR RELIEF

(For Vicarious and/or Contributory Copyright Infringement - Against All Defendants)

23. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

24. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of garments featuring the Subject Design as alleged herein.

25. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.

26. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

1 27. Due to Defendants', and each of their, acts of copyright infringement as
2 alleged herein, Defendants, and each of them, have obtained direct and indirect
3 profits they would not otherwise have realized but for their infringement of the
4 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
5 directly and indirectly attributable to Defendants' infringement of the Subject
6 Design, in an amount to be established at trial.

7 28. Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, have committed acts of copyright infringement, as alleged above,
9 which were willful, intentional and malicious, which further subjects Defendants,
10 and each of them, to liability for statutory damages under Section 504(c)(2) of the
11 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
12 infringement. Within the time permitted by law, Plaintiff will make its election
13 between actual damages and statutory damages.

14 **PRAYER FOR RELIEF**

15 Wherefore, Plaintiff prays for judgment as follows:

16 **Against All Defendants**

17 29. With Respect to Each Claim for Relief

- 18 a. That Defendants, each of them, and their agents and employees be
19 enjoined from infringing Plaintiff's copyrights in any manner,
20 specifically those for the Subject Design;
- 21 b. That Defendants, and each of them, account to Plaintiff for their profits
22 and any damages sustained by Plaintiff arising from the foregoing acts
23 of infringement, the exact sum to be proven at the time of trial, or, if
24 elected before final judgment, statutory damages as available under the
25 Copyright Act, 17 U.S.C. § 101 et seq.;
- 26 c. That Plaintiff be awarded its attorneys' fees as available under the
27 Copyright Act U.S.C. § 101 et seq.;

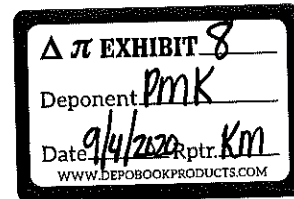
- 1 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
2 e. That Plaintiff be awarded the costs of this action; and
3 f. That Plaintiff be awarded such further legal and equitable relief as the
4 Court deems proper.

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6 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
7 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

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9 Respectfully submitted,

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11 Dated: April 23, 2015

12 By: /s/ Scott A. Burroughs
13 Scott A. Burroughs, Esq.
14 Trevor W. Barrett, Esq.
15 Justin M. Gomes, Esq.
16 DONIGER / BURROUGHS
17 Attorneys for Plaintiff
18 UNICOLORS, INC.
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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STAR FABRICS, INC., a California
Corporation,

Plaintiff,

vs.

RHAPSODIELLE, INC. a California
Corporation; CLASSIC FOR LADIES, a
California Company; MJC
CONNECTION, INC., a California
Corporation d/b/a "Mind Code"; DESE
ENTERPRISE, INC., a California
Corporation d/b/a "AMI Clubwear";
WHOLESALEFASHIONSQUARE.COM
, INC., a California Corporation; JOIA
TRADING, INC., a California
Corporation; and DOES 2 through 10,

Defendants.

Case No.: CV13-02357-CBM (SSx)
Hon. Consuelo B. Marshall Presiding

**PLAINTIFF'S THIRD AMENDED
COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

1 Plaintiff STAR FABRICS, INC. (hereinafter "STAR" or "Plaintiff"), by and
2 through its undersigned attorneys, hereby prays to this honorable Court for relief
3 based on the following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
6 *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
8 1338 (a) and (b).

9 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
10 1400(a) in that this is the judicial district in which a substantial part of the acts and
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. Plaintiff STAR FABRICS, INC. ("Plaintiff" or "STAR") is a corporation
14 organized and existing under the laws of the State of California with its principal
15 place of business located at 1440 Walnut St., Los Angeles, California 90011.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant
17 RHAPSODIELLE, INC. ("RHAPSODIELLE") is a corporation organized and
18 existing under the laws of the State of California with its principal place of business
19 located at 1004 E. Olympic Blvd. #B, Los Angeles, California 90021.

20 6. Plaintiff is informed and believes and thereon alleges that Defendant
21 CLASSIC FOR LADIES ("CLASSIC") is a company organized and existing under
22 the laws of the State of California with its principal place of business located at 400
23 S. Baldwin Avenue #340-L, Arcadia, California 91007-1907.

24 7. Plaintiff is informed and believes and thereon alleges that Defendant MJC
25 CONNECTION, INC. doing business as "Mind Code" ("MIND CODE") is a
26 corporation organized and existing under the laws of the State of California with its
27 principal place of business located at 3443 S. Main Street, Los Angeles, CA 90007.

1 8. Plaintiff is informed and believes and thereon alleges that Defendant DESE
2 ENTERPRISE, INC. doing business as AMI CLUBWEAR (“AMI”) is a corporation
3 organized and existing under the laws of the State of California with its principal
4 place of business located at 14273 Don Julian Road, Industry, California 91746.

5 9. Plaintiff is informed and believes and thereon alleges that Defendant
6 WHOLESALFASHIONSQUARE.COM, INC. (“WHOLESALFASHION”) is a
7 corporation organized and existing under the laws of the State of California with its
8 principal place of business located at 4927 Alcoa Avenue, Vernon, CA 90058.

9 10. Plaintiff is informed and believes and thereon alleges that Defendant JOIA
10 TRADING, INC. (“JOIA”) is a corporation organized and existing under the laws of
11 the State of California with its principal place of business located at 1020 Crocker
12 St., Los Angeles, CA 90021.

13 11. Plaintiff is informed and believes and thereon alleges that some of
14 Defendants DOES 2 through 3, inclusive, are manufacturers and/or vendors of
15 garments to Defendant, which DOE Defendants have manufactured and/or supplied
16 and are manufacturing and/or supplying garments comprised of fabric printed with
17 Plaintiff’s copyrighted designs (as hereinafter defined) without Plaintiff’s knowledge
18 or consent or have contributed to said infringement. The true names, whether
19 corporate, individual or otherwise of Defendants DOES 2-3, inclusive, are presently
20 unknown to Plaintiff, which therefore sues said Defendants by such fictitious names
21 and will seek leave to amend this complaint to show their true names and capacities
22 when same have been ascertained.

23 12. Defendants DOES 4 through 10, inclusive, are other parties not yet
24 identified who have infringed Plaintiff’s copyrights, have contributed to the
25 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
26 wrongful practices alleged herein. The true names, whether corporate, individual or
27 otherwise, of Defendants 4 through 10, inclusive, are presently unknown to Plaintiff,
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1 which therefore sues said Defendants by such fictitious names, and will seek leave to
2 amend this Complaint to show their true names and capacities when same have been
3 ascertained.

4 13. Plaintiff is informed and believes and thereon alleges that at all times
5 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
6 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
7 at all times acting within the scope of such agency, affiliation, alter-ego relationship
8 and/or employment; and actively participated in or subsequently ratified and
9 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
10 all the facts and circumstances, including, but not limited to, full knowledge of each
11 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
12 caused thereby.

13 **CLAIMS RELATED TO DESIGN 61261**

14 14. Prior to the conduct complained of herein, Plaintiff composed an original
15 two-dimensional artwork for purposes of textile printing. It allocated this design
16 Plaintiff's Internal Design Number 61261 ("hereinafter Subject Design A"). This
17 artwork was a creation of Plaintiff and/or Plaintiff's design team, and is, and at all
18 relevant times was, owned in exclusively by Plaintiff.

19 15. Plaintiff applied for and received a United States Copyright Registration
20 for Subject Design A.

21 16. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
22 bearing Subject Design A to numerous parties in the fashion and apparel industries.

23 17. Following this distribution of product bearing Subject Design A, Plaintiff's
24 investigation revealed that certain entities within the fashion and apparel industries
25 had misappropriated Subject Design A, and were selling fabric and garments bearing
26 illegal reproductions and derivations of Subject Design A.

1 18. Plaintiff is informed and believes and thereon alleges that, without
2 Plaintiff's authorization, RHAPSODIELLE, CLASSIC, and certain DOE defendants
3 created, sold, manufactured, caused to be manufactured, imported and/or distributed
4 fabric and/or garments comprised of fabric featuring designs which are substantially
5 similar to Subject Design A (hereinafter "Infringing Garment A"). Said garments
6 include but are not limited to the garments sold by CLASSIC under SKU No.
7 328122233; and sold by RHAPSODIELLE under SKU No. 0590449423,
8 0320122211; and MUST HAVE label.

9 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, have committed copyright infringement with actual or constructive
11 knowledge of Plaintiff's rights, and/or in blatant disregard for Plaintiff's rights, such
12 that said acts of copyright infringement were, and continue to be, willful, intentional
13 and malicious, subjecting Defendants, and each of them, to liability for statutory
14 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
15 hundred fifty thousand dollars (\$150,000) per infringement.

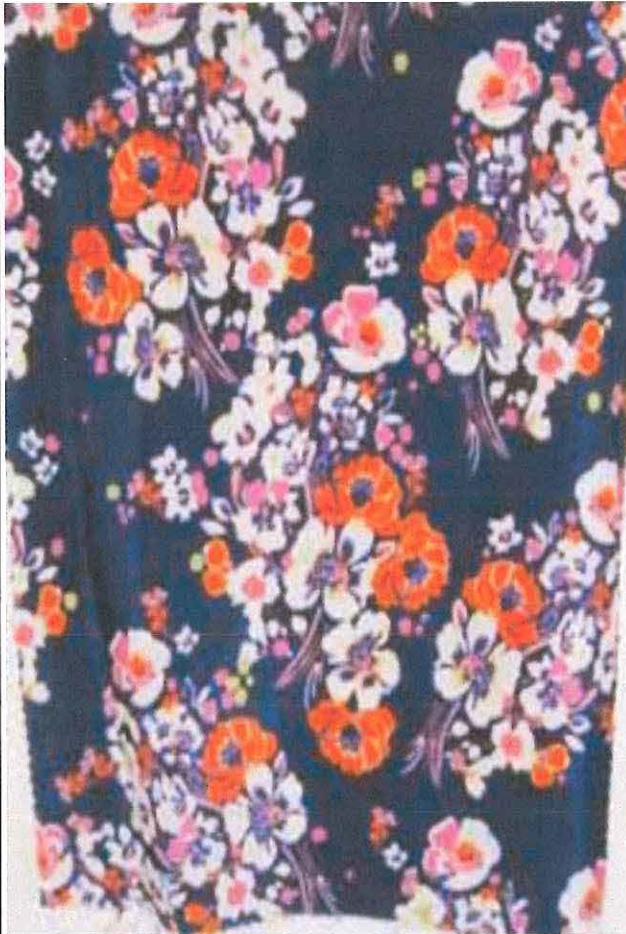
16 20. A comparison of Subject Design A (left) and Infringing Garment A (right)
17 are set forth below; it is apparent that the elements, composition, colors,
18 arrangement, layout, and appearance of the design are substantially similar.

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Subject Design A



Infringing Garment A



CLAIMS RELATED TO DESIGN 63202

21. Prior to the conduct complained of herein, Plaintiff composed an original two-dimensional artwork for purposes of textile printing. It allocated this design Plaintiff's Internal Design Number 63202 ("hereinafter Subject Design B"). This artwork was a creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times was, owned in exclusively by Plaintiff.

22. Plaintiff applied for and received a United States Copyright Registration for Subject Design B.

23. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing Subject Design B to numerous parties in the fashion and apparel industries.

1 24. Following this distribution of product bearing Subject Design B, Plaintiff's
2 investigation revealed that certain entities within the fashion and apparel industries
3 had misappropriated Subject Design B, and were selling fabric and garments bearing
4 illegal reproductions and derivations of Subject Design B.

5 25. Plaintiff is informed and believes and thereon alleges that, without
6 Plaintiff's authorization, RHAPSODIELLE, MIND CODE, and certain DOE
7 defendants created, sold, manufactured, caused to be manufactured, imported and/or
8 distributed fabric and/or garments comprised of fabric featuring designs which are
9 substantially similar to Subject Design B (hereinafter "Infringing Garment B"). Said
10 garments include but are not limited to the garments sold by RHAPSODIELLE
11 under SKU No. 4811986212; and Style No. T 19862.

12 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
13 each of them, have committed copyright infringement with actual or constructive
14 knowledge of Plaintiff's rights, and/or in blatant disregard for Plaintiff's rights, such
15 that said acts of copyright infringement were, and continue to be, willful, intentional
16 and malicious, subjecting Defendants, and each of them, to liability for statutory
17 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
18 hundred fifty thousand dollars (\$150,000) per infringement.

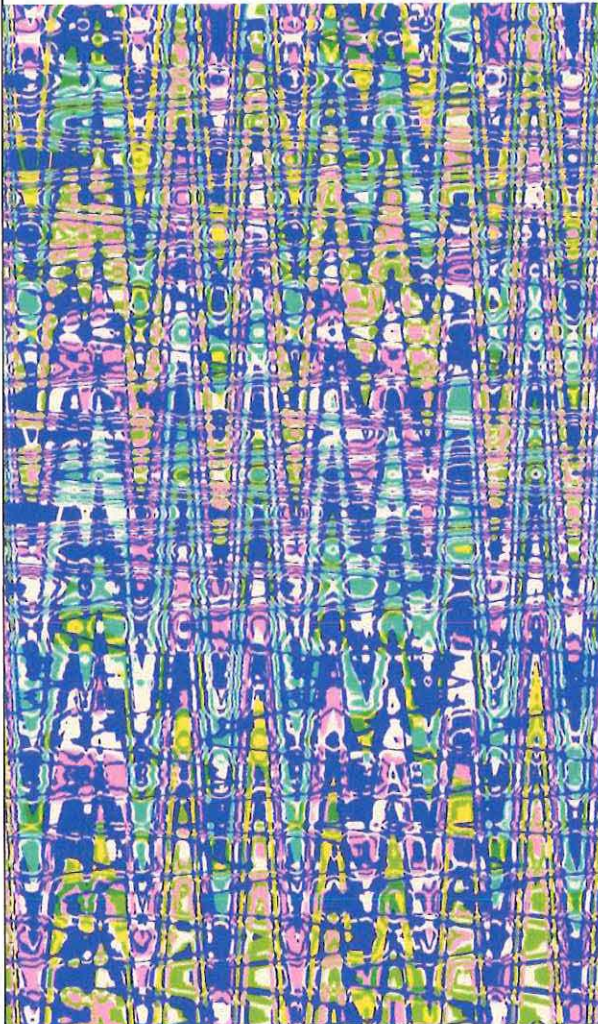
19 27. A comparison of Subject Design B (left) and Infringing Garment B (right)
20 are set forth below; it is apparent that the elements, composition, colors,
21 arrangement, layout, and appearance of the design are substantially similar.

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Subject Design B



Infringing Garment B



CLAIMS RELATED TO DESIGN 60704

28. Prior to the conduct complained of herein, Plaintiff composed an original two-dimensional artwork for purposes of textile printing. It allocated this design Plaintiff's Internal Design Number 60704 ("hereinafter Subject Design C"). This artwork was a creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times was, owned in exclusively by Plaintiff.

29. Plaintiff applied for and received a United States Copyright Registration for Subject Design C.

1 30. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
2 bearing Subject Design C to numerous parties in the fashion and apparel industries.

3 31. Following this distribution of product bearing Subject Design C, Plaintiff's
4 investigation revealed that certain entities within the fashion and apparel industries
5 had misappropriated Subject Design C, and were selling fabric and garments bearing
6 illegal reproductions and derivations of Subject Design C.

7 32. Plaintiff is informed and believes and thereon alleges that, without
8 Plaintiff's authorization, WHOLESALFASHION, AMI and certain DOE
9 defendants created, sold, manufactured, caused to be manufactured, imported and/or
10 distributed fabric and/or garments comprised of fabric featuring designs which are
11 substantially similar to Subject Design C ("Infringing Garment C). Said garments
12 include but are not limited to the garments sold by AMI under Style No. D-306, and
13 ZORA FASHION label.

14 33. Plaintiff is informed and believes and thereon alleges that AMI purchased
15 and/or otherwise obtained Infringing Garment C from WHOLESALFASHION.

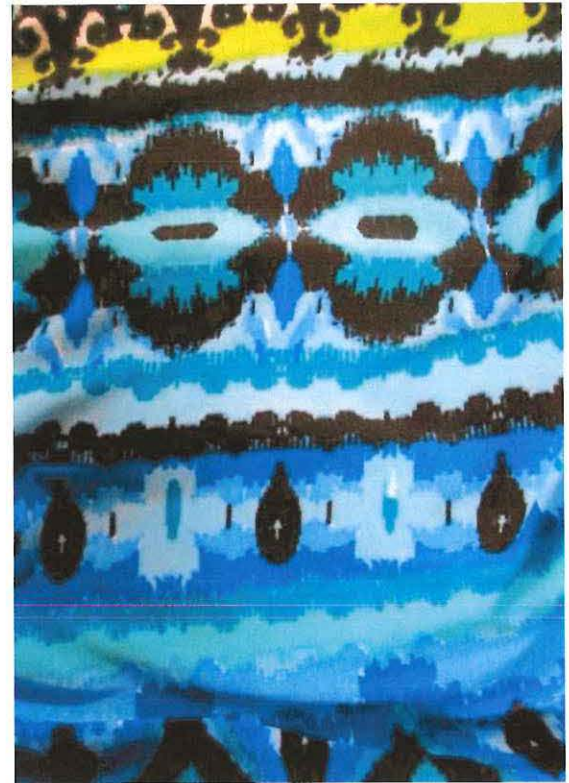
16 34. Plaintiff is informed and believes and thereon alleges that Defendants, and
17 each of them, have committed copyright infringement with actual or constructive
18 knowledge of Plaintiff's rights, and/or in blatant disregard for Plaintiff's rights, such
19 that said acts of copyright infringement were, and continue to be, willful, intentional
20 and malicious, subjecting Defendants, and each of them, to liability for statutory
21 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
22 hundred fifty thousand dollars (\$150,000) per infringement.

23 35. A comparison of Subject Design C (left) and Infringing Garment C (right)
24 are set forth below; it is apparent that the elements, composition, colors,
25 arrangement, layout, and appearance of the design are substantially similar.

Subject Design C



Infringing Garment C



CLAIMS RELATED TO DESIGN 61619

36. Prior to the conduct complained of herein, Plaintiff composed an original two-dimensional artwork for purposes of textile printing. It allocated this design Plaintiff's Internal Design Number 61619 ("hereinafter Subject Design D"). This artwork was a creation of Plaintiff and/or Plaintiff's design team, and is, and at all relevant times was, owned exclusively by Plaintiff.

37. Plaintiff applied for and received a United States Copyright Registration for Subject Design D.

38. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing Subject Design D to numerous parties in the fashion and apparel industries.

39. Following this distribution of product bearing Subject Design D, Plaintiff's investigation revealed that certain entities within the fashion and apparel industries

1 had misappropriated Subject Design D, and were selling fabric and garments bearing
2 illegal reproductions and derivations of Subject Design D.

3 40. Plaintiff is informed and believes and thereon alleges that, without
4 Plaintiff's authorization, JOIA, AMI and certain DOE defendants created, sold,
5 manufactured, caused to be manufactured, imported and/or distributed fabric and/or
6 garments comprised of fabric featuring designs which are substantially similar to
7 Subject Design C (hereinafter "Infringing Garment D"). Said garments include but
8 are not limited to the garments sold by AMI under SKU Nos. 9749redmultiONE,
9 9749purplemultiONE, 9749magentamultiONE, and 9749greenmultiONE.

10 41. Plaintiff is informed and believes and thereon alleges that AMI purchased
11 and/or otherwise obtained Infringing Garment D from JOIA.

12 42. Plaintiff is informed and believes and thereon alleges that Defendants, and
13 each of them, have committed copyright infringement with actual or constructive
14 knowledge of Plaintiff's rights, and/or in blatant disregard for Plaintiff's rights, such
15 that said acts of copyright infringement were, and continue to be, willful, intentional
16 and malicious, subjecting Defendants, and each of them, to liability for statutory
17 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
18 hundred fifty thousand dollars (\$150,000) per infringement.

19 43. A comparison of Subject Design D (left) and Infringing Garment D (right)
20 are set forth below; it is apparent that the elements, composition, colors,
21 arrangement, layout, and appearance of the design are substantially similar.

22 ///

23 ///

24 ///

Subject Design D



Infringing Garment D



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

44. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

45. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design A, Subject Design B, Subject Design C, and/or Subject Design D (hereinafter “Subject Designs”), including, without limitation, through (a) access to Plaintiff’s showroom and/or design library; (b) access to illegally distributed copies of the Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff’s strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Designs by Plaintiff for its customers.

1 46. Plaintiff is informed and believes and thereon alleges that one or more of
2 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
3 further informed and believes and thereon alleges that said Defendant(s) has an
4 ongoing business relationship with Defendant retailer, and each of them, and
5 supplied garments to said retailer, which garments infringed the Subject Designs in
6 that said garments were composed of fabric which featured unauthorized print
7 design(s) that were identical or substantially similar to the Subject Designs, or were
8 an illegal derivation or modification thereof.

9 47. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, infringed Plaintiff's copyrights by creating, making, and/or developing
11 directly infringing and/or derivative works from the Subject Designs and by
12 producing, distributing and/or selling garments which infringe the Subject Designs
13 through a nationwide network of retail stores, catalogues, and through on-line
14 websites.

15 48. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
16 damages to its business in an amount to be established at trial.

17 49. Due to Defendants' acts of infringement, Plaintiff has suffered general and
18 special damages in an amount to be established at trial.

19 50. Due to Defendants' acts of copyright infringement as alleged herein,
20 Defendants, and each of them, have obtained direct and indirect profits they would
21 not otherwise have realized but for their infringement of the Subject Designs. As
22 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
23 indirectly attributable to Defendant's infringement of the Subject Designs in an
24 amount to be established at trial.

25 51. Plaintiff is informed and believes and thereon alleges that Defendants, and
26 each of them, have committed acts of copyright infringement, as alleged above,
27 which were willful, intentional and malicious, which further subjects Defendants,
28

1 and each of them, to liability for statutory damages under Section 504(c)(2) of the
2 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
3 infringement. Within the time permitted by law, Plaintiff will make its election
4 between actual damages and statutory damages.

5 **SECOND CLAIM FOR RELIEF**

6 (For Vicarious and/or Contributory Copyright Infringement - Against All
7 Defendants)

8 52. Plaintiff repeats, realleges, and incorporates herein by reference as though
9 fully set forth, the allegations contained in the preceding paragraphs of this
10 Complaint.

11 53. Plaintiff is informed and believes and thereon alleges that Defendants
12 knowingly induced, participated in, aided and abetted in and profited from the illegal
13 reproduction and/or subsequent sales of garments featuring Subject Designs as
14 alleged herein.

15 54. Plaintiff is informed and believes and thereon alleges that Defendants, and
16 each of them, are vicariously liable for the infringement alleged herein because they
17 had the right and ability to supervise the infringing conduct and because they had a
18 direct financial interest in the infringing conduct.

19 55. By reason of the Defendants', and each of their, acts of contributory and
20 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
21 suffer substantial damages to its business in an amount to be established at trial, as
22 well as additional general and special damages in an amount to be established at
23 trial.

24 56. Due to Defendants', and each of their acts of copyright infringement as
25 alleged herein, Defendants, and each of them, have obtained direct and indirect
26 profits they would not otherwise have realized but for their infringement of Subject
27 Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly
28

1 and indirectly attributable to Defendants' infringement of the Subject Designs, in an
2 amount to be established at trial.

3 57. Plaintiff is informed and believes and thereon alleges that Defendants, and
4 each of them, have committed acts of copyright infringement, as alleged above,
5 which were willful, intentional and malicious, which further subjects Defendants,
6 and each of them, to liability for statutory damages under Section 504(c)(2) of the
7 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
8 infringement. Within the time permitted by law, Plaintiff will make its election
9 between actual damages and statutory damages.

10 **PRAYER FOR RELIEF**

11 Wherefore, Plaintiff prays for judgment as follows:

12 **Against All Defendants**

13 58. With Respect to Each Claim for Relief

- 14 a. That Defendants, their agents and employees be enjoined from
15 infringing Plaintiff's copyrights in any manner, specifically those for the
16 Subject Designs;
- 17 b. That Plaintiff be awarded all profits of Defendants plus all losses of
18 Plaintiff, plus any other monetary advantage gained by the Defendants
19 through their infringement, the exact sum to be proven at the time of
20 trial, or, if elected before final judgment, statutory damages as available
21 under the Copyright Act, 17 U.S.C. § 101 et seq.;
- 22 c. That Plaintiff be awarded its attorneys' fees as available under the
23 Copyright Act U.S.C. § 101 et seq.;
- 24 d. That Defendants, and each of them, account to Plaintiff for their profits
25 and any damages sustained by Plaintiff arising from the foregoing acts
26 of infringement;
- 27 e. That Plaintiff be awarded pre-judgment interest as allowed by law;

1 f. That Plaintiff be awarded the costs of this action; and

2 g. That Plaintiff be awarded such further legal and equitable relief as the
3 Court deems proper.

4 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
5 38 and the 7th Amendment to the United States Constitution.

6
7 DONIGER / BURROUGHS

8
9 Dated: March 7, 2014

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
Annie Abouljian, Esq.
Attorneys for Plaintiff